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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

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March 19, 2015

**VIA ELECTRONIC TRANSMISSION**

The Honorable Steve Linick  
Inspector General  
U.S. Department of State  
2201 C Street, N.W.  
Washington, D.C. 20522

Dear Inspector General Linick:

I wrote to the State Department on June 13, 2013 and August 15, 2013 regarding the Department's use of Special Government Employee (SGE) designations, and in particular, what steps the Department took to ensure that Ms. Huma Abedin's outside employment with a political intelligence and corporate advisory firm did not conflict with her simultaneous employment at the State Department.

Recent revelations about the record keeping practices at the State Department under Secretary Clinton raise questions as to whether any email communications from Secretary Clinton and Ms. Abedin to Teneo, or Teneo's clients, were properly preserved.<sup>1</sup> According to Secretary Clinton, she built a private email server in her personal residence and used a private email account on that server. Use of the personal account prevented regular government records retention processes from preserving her work-related emails. Moreover, according to press reports, Ms. Abedin also had an email account on Secretary Clinton's private server.<sup>2</sup>

Perhaps this explains why the Department has been unresponsive to my previous letters seeking records relating to Ms. Abedin's status as an SGE, as well as to media requests under the Freedom of Information Act (FOIA). Any email searches that may have been conducted in response to my letters are likely incomplete as the Department apparently did not have any access to Secretary Clinton's or Ms. Abedin's email records on that server. Similarly, any searches for records responsive to FOIA requests for records of Secretary Clinton's or Ms. Abedin's email communications would have been incomplete.

<sup>1</sup> Stephen Dinan, "State Department agrees to reopen Hillary Clinton email case," THE WASHINGTON TIMES (March 12, 2015); Daniel Halper, "Hillary's top two aides used personal email at State Department", THE WEEKLY STANDARD (March 11, 2015).

<sup>2</sup> Daniel Halper, "Hillary's top two aides used personal email at State Department", THE WEEKLY STANDARD (March 11, 2015).

The Senate Judiciary Committee, which has direct legislative jurisdiction over FOIA, needs to have a clear understanding of the effects that these email practices at the State Department have had on FOIA compliance. Additionally, it is important to understand whether the State Department's excessive use of the SGE designation undermines standards of ethics. A number of conflict of interest concerns arise when a government employee is simultaneously being paid by a private company, especially when that company, Teneo, "brings together the disciplines of government and public affairs."<sup>3</sup> Moreover, these concerns are heightened when high level employees, such as Ms. Abedin, may have used non-government email accounts to engage in both government and private business.

Furthermore, Ms. Abedin and other State Department employees appear to have been improperly categorized as SGEs. The Department's response dated November 14, 2014 states, "An individual may receive an SGE designation if he or she is joining the Department from the private sector or is coming from another government position."<sup>4</sup> However, in Ms. Abedin's case, she neither came from the private sector nor came from another government position. She converted from a full-time employee to become an SGE, with seemingly little difference in her job description or responsibilities. The purpose of the SGE program "...is to help the Government obtain the temporary or intermittent services of persons with special knowledge and skills whose principal employment is outside the Government."<sup>5</sup> It is unclear what special knowledge or skills Ms. Abedin possessed that the government could not have easily obtained otherwise from regular government employees. As I explained in my letter to Ms. Abedin dated June 13, 2013, the State Department's current use of the SGE designation blurs the line between public and private sector employees. The taxpayer deserves to know why she was permitted to become an SGE from inside government when normally an SGE would come from outside government, and whether she used a non-government email address on Secretary Clinton's private server for official State Department business. Likewise, the taxpayer has a right to know if other State Department SGEs were given similarly favorable treatment.

The State Department Records Management manual, as well as federal law<sup>6</sup>, imparts a number of records retention obligations on employees.<sup>7</sup> These include the requirement that departing employees be reminded about their obligations in preserving their email communications and records,<sup>8</sup> surrender classified and unclassified material for review prior to deletion,<sup>9</sup> and attest that the surrender has in fact occurred.<sup>10</sup> Given Secretary Clinton's public comments, it is unclear to what extent she or Ms. Abedin complied with these requirements.

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<sup>3</sup> Teneo, <http://teneoholdings.com/pages/businesses>.

<sup>4</sup> Letter dated November 14, 2014 from U.S. Dept. of State to Senator Grassley.

<sup>5</sup> Robert F. Kennedy, Memorandum Regarding Conflict of Interest Provisions of Public Law 87-849, 28 FR 985 (January 28, 1963).

<sup>6</sup> 44 U.S.C. §3101.

<sup>7</sup> U.S. State Department Records Management Manual, 5 FAH-4 H-217.1(a)(1); 5 FAH-4 H-217.2.(a)-(b).

<sup>8</sup> U.S. State Department Records Management Manual, 5 FAH-4 H-217.1(a)(1).

<sup>9</sup> U.S. State Department Records Management Manual, 5 FAH-4 H-217.2.(a)-(b).

<sup>10</sup> Form OF-109.

OIG plays a critical role in ensuring that the State Department complies with all federal statutes, rules, and regulations. Accordingly, please provide the following information:

1. When and how did the State Department OIG become aware of Secretary Clinton's and Ms. Abedin's decision not to use government e-mail?
2. What safeguards are available to the OIG to prevent the destruction of official government e-mail?
3. Has the OIG initiated an investigation into the retention of Secretary Clinton's and Ms. Abedin's e-mail? If so, please provide a status update. If not, why not?
4. When faced with employees who are using non-government email accounts for government business, what steps has the OIG engaged in to take corrective action?
5. When faced with an employee who does not properly submit material for review and storage prior to departure, whether email or other unclassified or classified documents, what steps has the OIG engaged in to take corrective action?
6. State Department spokesperson Jennifer Psaki was recently asked whether Secretary Clinton signed a separation statement acknowledging proper surrender of classified and unclassified material to State Department officials as required by the State Department Records Management manual to which she stated, "We are fairly certain that she didn't [sign the form] or we would have record of it," and Ms. Psaki also noted that recent secretaries of state have not signed the form either.<sup>11</sup> Can you confirm that Secretary Clinton, and previous secretaries of state, did not sign a separation statement? If so, why have they not been required to do so? Did Ms. Abedin sign such a statement? If so, please provide a copy. If not, why was she not required to do so?
7. Will the State Department OIG examine whether the designation of Ms. Abedin as an SGE was consistent with the standards for the use of that designation?
8. Will the State Department OIG examine whether sufficient safeguards against conflicts of interest were in place in the case of Ms. Abedin and other SGEs with outside employment at the State Department?
9. What steps does the OIG normally take to ensure SGEs are not involved in conflicts of interest?
10. What steps will the State Department OIG take to determine whether Ms. Abedin improperly used non-government email accounts to conduct government business?

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<sup>11</sup> Deirdre Walsh, "Psaki: Clinton didn't sign 'separation' form, but former secretaries didn't either," CNN (March 17, 2015).

Please number your responses according to their corresponding questions. Please respond no later than March 30, 2015. If you have any questions, please contact Josh Flynn-Brown of my Committee staff at (202) 224-5225. I appreciate your attention to this matter – thank you in advance for your cooperation.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive style with a blue highlight effect.

Charles E. Grassley  
Chairman  
Committee on the Judiciary